



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

08/975,803 11/21/97 MOON

I EMOON001A

EXAMINER

QM51/0723

KNOBBE MARTENS OLSON & BEAR
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660-8016

NGUYEN, T

ART UNIT

PAPER NUMBER

3751

DATE MAILED:

07/23/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/975,803

Applicant(s)
In E. Moon

Examiner
Tuan Nguyen

Group Art Unit
3751



☒ Responsive to communication(s) filed on Nov 21, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-26 is/are pending in the application.

Of the above, claim(s) 10-12, 14, 15, 17, and 19-26 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-9, 16, and 18 is/are rejected.

☒ Claim(s) 13 is/are objected to.

☒ Claims 1-26 are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Nov 21, 1997 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3751

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-18, drawn to a toilet attachment, classified in class 4, subclass 420.1.
 - II. Claims 19-26, drawn to an irrigation assembly, classified in class 604, subclass 35.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination is more distinct to a tubular body and it would be a burden on the examiner to prosecute the subcombination. The subcombination has separate utility such as means for conducting body treating material into or out of a body.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. This application contains claims directed to the following patentably distinct species of the claimed invention:
Species I: Figure 4A,

Art Unit: 3751

Species II: Figure 4B,

Species III: Figure 4C and 5,

Species IV: Figures 1-3 and 4D,

Species V: Figure 4E, and

Species VI: Figure 4F.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claim 1 is considered generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

Art Unit: 3751

examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. During a telephone conversation with Mr. Anderson on July 1, a provisional election was made with traverse to prosecute the invention of group I and Species IV, claims 1-9, 13, 16, and 18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-12, 14, 15, 17 and 19-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

6. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the connections between "the irrigation tip 38," "the U-shaped portion 52," and "the connecting portion 50" (lines 10-16, page 7) and the limiter 56 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

Specification

7. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims; such as "means," "comprises," and "said;" should be avoided. The abstract should describe the disclosure

Art Unit: 3751

sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," "a preferred embodiment of the invention," etc.

8. The abstract of the disclosure is objected to because improper language as indicated above. Correction is required. See MPEP § 608.01(b).

9. The disclosure is objected to because of the following informalities: on page 6; line 29 of the specification, the indication of a U-shaped groove having an annular cross section is inaccurate with the excepted meaning of the term annular.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1, 3, 5, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Claim 1 is unclear as to how many ports to receive and secure the fluid line and the irrigation assembly.

Art Unit: 3751

13. Claim 3 is considered inaccurate as to the meaning of the term annular, the channel is not an annular groove.
14. Regarding claim 5, it is unclear whether the applicant is claiming the flexible tube as part of the combination of the claimed invention.
15. Regarding claim 18, the phrase "providing" on line 8 renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson et al..

Anderson et al. discloses a toilet attachment comprising a tubular irrigation assembly (a hand held bidet) D having an outlet for fluid received from the fluid line; a base plate (a sitz bath) S having an upper surface 18 and lower surface 14, a rear end and a front end, and ports (a channel bottom) 42 and (U-channel) 66; said base plate comprises a channel (a hand held bidet channel) C, a middle 44, 60 and 20, and two outer sections; said middle section being thicker than said two outer sections and depending therefrom to depend into a toilet bowl an about a portion

Art Unit: 3751

of said bowl; wherein the channel is an annular groove contains projections located proximity to one of said ports; and said groove is capably adapted to receive a flexible tube in a press-fit manner.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. in view of Spicher.

The Anderson et al. reference discussed supra teaches all claimed elements except for the irrigation assembly comprises a U-shaped tube. Although the irrigation assembly of the Anderson et al. reference does not include the U-shaped tube, as claimed, attention is directed to the Spicher reference which discloses an analogous toilet attachment which further includes an irrigation assembly comprising a U-shaped tube (a rigid tube) 2 having a first end (an inner end) 9 connected to an irrigation tip (an upright catheter) 1 and a second end being capably adapted to connect to one of the ports; and a fluid line (a flexible tube) 3. The normal assembly of the irrigation assembly would render the method for applying a toilet attachment for irrigating a body cavity, as claimed, obvious. Therefore, in consideration of the Spicher reference, it would have

Art Unit: 3751

been obvious to one of ordinary skill in the art to associate the irrigation assembly with the body cavity insertable irrigation tip with the toilet attachment of Anderson et al. in order to insert the colon irrigator into the rectum.

20. Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. in view of Spicher as applied to claim 8 above, and further in view of Akzo.

Although the irrigation assembly of the Spicher reference does not include the insertable device with a limiter, as claimed, attention is directed to the Akzo reference. The Akzo reference discloses an insertable device (a holder) 1 which further includes a limiter (a stop plate) 6, it would have been obvious to one of ordinary skill in the art to associate the limiter with the insertable device of Spicher in order to limit the insertion depth of the tip into the rectum. It is obvious because Spicher teaches to insert the insertable device a few inches into the rectum (see line 30, page 1).

Allowable Subject Matter

21. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

22. The following is a statement of reasons for the indication of allowable subject matter: none of the prior art cited teaches the combining features set forth in claims 6 and 13.

Art Unit: 3751

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller discloses a toilet attachment (Figs. 3A-3D) comprising a tubular irrigation assembly (a rigid conduit) 10 having an outlet (upwardly discharge liquid column) 29 and a U-shaped tube (a U-shaped portion) 15 with a first and second end; said first end comprises an irrigation tip (an upwardly opening nozzle) 21; said second end being adapted to connect to one of the port; a base plate (a channeled member) 60 having an upper and lower surface, a rear end and a front end, and ports; said base plate comprises a channel (a medial channel) 66; and wherein the channel is a groove capably adapted to receive a flexible tube in a press-fit manner. The Miyanaga reference discloses an analogous base plate (an attachment) 10 which includes a thicker middle section (front wall) 29.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tuan Nguyen whose telephone number is (703) 306-9046. The examiner can normally be reached on Monday through Friday. The fax number for this Group is (703) 305-0182.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0858.

TN

July 15, 1998



ROBERT M. FETSUGA
PRIMARY EXAMINER